

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Caption:

RUSSELL HARRIS

Full name(s) of Plaintiff(s)

COMPLAINT
FOR EMPLOYMENT
DISCRIMINATION

v.

CIVIL ACTION
NO. _____

KEYSTONE CEMENT CO.

Full name(s) of Defendant(s)

This action is brought for discrimination in employment pursuant to (check only those that apply):

☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).
NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634.
NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission, and you must have been at least 40 years old at the time you believe that you were discriminated against.

☐ Americans with Disability Act of 1990, as codified, 42 U.S.C. §§ 12112-12117.
NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

☐ Pennsylvania Human Relations Act, as codified, 43 Pa. Cons. Stat. §§ 951-963 (race, color, family status, religious creed, ancestry, handicap or disability, age, sex, national origin, the use of a guide or support animal because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals).

NOTE: In order to bring suit in federal district court under the Pennsylvania Human Relations Act, you must first file a complaint with the Pennsylvania Human Relations Commission or the Philadelphia Commission on Human Relations, and then you must wait one year prior to filing a lawsuit.

I. Parties in this complaint:

- A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name: RUSSELL HARRIS
 Street Address: 230 ANN St. Apt. 16C
 County, City: NORTHAMPTON - EASTON
 State & Zip: P.A. 18042
 Telephone Number: 215 933 8783

- B. List all defendants' names and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the caption on the first page. Attach additional sheets of paper as necessary.

Defendant Name: KEYSTONE CEMENT COMPANY
 Street Address: RTE 329 & 512 P.O. BOX 4
 County, City: NORTHAMPTON - BATH
 State & Zip: PA. 18014
 Telephone Number: 610 837 1881

- C. The address at which I sought employment or was employed by the defendant(s) is:

Employer: KEYSTONE CEMENT COMPANY
 Street Address: RTE 329 & 512 P.O. BOX 4
 County, City: NORTHAMPTON - BATH
 State & Zip: PA. 18014
 Telephone Number: 610 837 1881

II. Statement of the Claim

- A. The discriminatory conduct of which I complain in this action includes (check only those that apply to your case):

☐ Failure to hire me
☐ Termination of my employment
☐ Failure to promote me

☐ Failure to reasonably accommodate my disability

☐ Failure to reasonably accommodate my religion

☐ Failure to stop harassment

☒ Unequal terms and conditions of my employment

☐ Retaliation

☒ Other (specify): Will list in Summary

NOTE: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court.

B. It is my best recollection that the alleged discriminatory acts occurred or began on or about: (month) 10, (day) 1-31, (year) 2017.

C. I believe that the defendant(s) (check one):
5/6 1-30 2018

☐ is still committing these acts against me.

☒ is **not** still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check only those that apply and state the basis for discrimination, for example, what is your religion, if religious discrimination is alleged):

☒ race AFRICAN AMERICAN

☒ color BROWN

☐ religion _____

☐ gender/sex _____

☐ national origin _____

☐ age My date of birth is _____ (Give your date of birth only if you are asserting a claim of age discrimination)

E. The facts of my case are as follow (attach additional sheets of paper as necessary):

PLEASE refer to Summary Page

NOTE: *As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the Pennsylvania Human Relations Commission, or the Philadelphia Commission on Human Relations.*

III. Exhaustion of Administrative Remedies:

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on: MAY 2018 (Date).

B. The Equal Employment Opportunity Commission (check one):

☐ has not issued a Notice of Right to Sue Letter.

☒ issued a Notice of Right to Sue Letter, which I received on 2/5/2019 (Date).

NOTE: *Attach to this complaint a copy of the Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.*

C. *Only plaintiffs alleging age discrimination must answer this question.*

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (check one):

☐ 60 days or more have passed.

☐ fewer than 60 days have passed.

D. It is my best recollection that I filed a charge with the Pennsylvania Human Relations Commission or the Philadelphia Commission on Human Relations regarding the defendant's alleged discriminatory conduct on: _____ (Date).

E. Since filing my charge of discrimination with the Pennsylvania Human Relations Commission or the Philadelphia Commission on Human Relations regarding the defendant's alleged discriminatory conduct (check one):

☐ One year or more has passed.

☐ Less than one year has passed.

IV. Relief

WHEREFORE, Plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs as well as (*check only those that apply*):

- ☐ Direct the defendant to hire the plaintiff.
- ☐ Direct the defendant to re-employ the plaintiff.
- ☐ Direct the defendant to promote the plaintiff.
- ☐ Direct the defendant to reasonably accommodate the plaintiff's disabilities.
- ☐ Direct the defendant to reasonably accommodate the plaintiff's religion.
- ☐ Direct the defendant to (*specify*): _____
- ☒ If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.
- ☒ Other (*specify*): LOSS OF VALUE

I declare under penalty of perjury that the foregoing is true and correct.

Signed this ___ day of MAY, 2019

Signature of Plaintiff

Address

Russ Harris

250 ANN ST. Apt 16C
EASTON, P.A. 18042

Telephone number

Fax number (*if you have one*)

215 933 8783

THE FACTS OF MY CASE ARE:

During this entire period of mistreatment, I endured coded email threats, a bizarre form of intimidation and consistent efforts to devalue my worth and education by the current Human Resources Manager of the company. He began fomenting a racial campaign against me as far back as 2014 and displayed a hiring practice that should concern us all. His conduct eventually led to a culture that marginalized me, and evolved into a dangerous and hostile work space for me. The conduct the manager exhibited eventually filtered down through the ranks to the newly appointed Quality Control Manager, and others within the department and I began to experience disturbing, sometimes aggressive behavior from various coworkers. As well, all of my coworkers, who are of Caucasian ethnicity, were consistently treated better than I was on a routine basis and were shielded from harm by the management there. Acts of non compliance were routinely committed by others in the department, but their indiscretions were always overlooked.

Whenever an infraction was committed by one of them, the newly appointed Quality Manager would look the other way, while the HR Manager would not even act on reported complaints from others about the infractions. The HR Rep would commonly ignore obvious violations that were brought to his attention, and deny that he had been told of the incident, but then would become aggressive in his pursuit when the opportunity existed to single me out for punitive action. I have personally observed instances where he has either falsified, or supported reports that were drafted and were designed to tarnish me in an attempt to further his "conditioned" thinking of people of color. This was extremely frustrating for me because there is a section on the initial EEOC application (who was treated better than you) that speaks to this area in particular, but was somehow overlooked by the EEOC after I forwarded the documents that were requested of me in late December. Those documents clearly defined the conditions of hostility, bias, and duplicity that I've described above, and were also accompanied with strong imagery.

In very real terms, the actions of The HR Manager and Quality Manager worked collectively to cause me serious health issues and irreparable damage to my goal of future health, and of constructing a business platform separate of the company when not at work. It is also important to note that the opinion of the EEOC citing "age" as a factor as being of no significance, and could not be pursued was a bit troubling for me. It was troubling because (age) was never a charge that I pursued as an interest of mine at anytime, and was never mentioned in that vein in any of my writings to the commission. Moreover, there seemed to be a myriad of confusion within the commission as I took exhaustive efforts to clarify this confusion, even going as far as repeating my application a second time in hopes the issue would get fixed. And if I am correct in my assessment, I believe I may have received email pertaining to my case from at least five different individuals. I have attached several of those emails to this document as proof.

You may ask why this complaint was filed so late and my response would be that ill health and faith has played a part in this filing process, only because thoughts that the

process may not work weighed heavily on my mind, in addition to the toll the abuses have exacted on my health and future.

So it is with great sincerity that I ask the Court, and his Honor, to grant me the opportunity to pursue this matter further. I am confident that I can produce the facts as evidence that will support my writings above.

DISMISSAL AND NOTICE OF RIGHTS

To: **Russell Harris**
P.O. Box 63
Telford, PA 18969

From: **Philadelphia District Office**
801 Market Street
Suite 1300
Philadelphia, PA 19107



On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

530-2018-03735

Legal Unit,
Legal Technician

(215) 440-2828

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

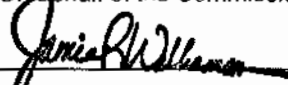
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Jamie R. Williamson,
District Director

02/04/2019

(Date Mailed)

Enclosures(s)

cc: **KEYSTONE CEMENT COMPANY**
L. Evan Van Gorder
Attorney at Law
OGLETREE DEAKINS
1735 Market Street, Suite 3000
Philadelphia, PA 19103

Enclosure with EEOC



801 Market Street
Penthouse, Suite 1300
Philadelphia, PA 19107-3127
(215) 440-2600
TTY (215) 440-2610
FAX (215) 440-2632, 2848 & 2604

Russell Harris
PO Box 63
Telford, PA 18969

Our Reference: EEOC Charge Number: 530-2018-03735
Russell Harris v. Keystone Cement Co.

Dear Mr. Harris:

This letter is submitted to you to explain the Commission's findings in the referenced charge. After careful review of the evidence which was provided by you, it does not appear that further investigation by the Equal Employment Opportunity Commission (EEOC) will result in a finding in your favor. The EEOC enforces laws that prohibit an employer from making decisions about its employees on the basis of race, color, sex, religion, national origin, age (if the employee is over the age of 40) or because of a disabling condition.

It is also unlawful to fire, demote, harass, or otherwise "retaliate" against people because they file a charge of discrimination, because the complained about discrimination or they participated in an employment discrimination proceeding.

You allege that you were denied a promotion because age, race and in retaliation for engaging in a protected activity. Respondent alleges that you were not selected for promotion due to performance issues and lack of qualifications. The evidence provided shows that you were age 57 when you began employment with Respondent. In October 2017, a vacant position for Laboratory Supervisor was available. There is no evidence to show that you applied for the vacant position. Respondent asserts that you were not qualified for the position due to lack of education requirements. Based on the evidence, you failed to apply for the vacant position. Additionally, there was no evidence to show that you were being treated unfavorably because of your age and in retaliation for engaging in a protected activity. Respondent chose the most qualified for the vacant position. Therefore, there was no violation of the statute committed by Respondent.

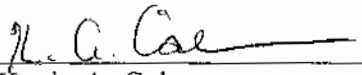
While we fully understand that the parties to a charge often have very firm views that the available evidence supports their respective positions, our final determinations must comport with our interpretations of the available evidence and the laws we enforce. Because there is no evidence of a violation of the laws enforced by the Commission, we will issue you a Dismissal and Notice of Rights which will enable you to file suit in U.S. District Court within 90 days of your receipt of that Notice if you wish to pursue this matter further.

After your file has been closed, should you wish to obtain a copy of the administrative file for this charge, please write to the following address to make such a request. You must do so within the above-referenced 90-day period, which can be extended if you do file a lawsuit in court concerning this matter. Please be advised that there may be a fee if you make such a request for file disclosure.

File Disclosure Unit
EEOC-Philadelphia District Office
801 Market St., Suite 1300
Philadelphia, PA 19107

We regret that we could not be of further service to you in this matter.

Sincerely,


Kevin A. Coleman
Federal Investigator

02/04/2019
Date

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC**530-2018-03735****Pennsylvania Human Relations Commission**

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Mr. Russell Harris

Home Phone (Incl. Area Code)

Date of Birth

1956

Street Address

City, State and ZIP Code

P.O. Box 63, Telford, PA 18969

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

KEYSTONE CEMENT CO

No. Employees, Members

101 - 200

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

Route # 328, Bath, PA 18014

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☒ RETALIATION ☒ AGE ☐ DISABILITY ☐ GENETIC INFORMATION
☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

10-27-2017**10-27-2017**☐

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

"SEE ATTACHED"

I allege that I have been discriminated against in violation of the Age Discrimination in Employment Act of 1967 (ADEA) as amended, because of my age (62) and Title VII of the Civil Rights Act of 1964 (Title VII) as amended, because of my race (African American) and in retaliation for engaging in a protected activity.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

7-10-2018

Date

Russ Harris

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)



801 Market Street
Suite 1300
Philadelphia, PA 19107
(215) 440-2602
TDD: 1-800-669-6820
Fax: (215) 440-2604
1-800-669-4000

Respondent: KEYSTONE CEMENT CO.
EEOC Charge No.: 530-2018-04441
FEPA Charge No.:

September 11, 2018

Russell Harris
P.O Box 36
Telford, PA 18969

Dear Mr. Harris:

This is to acknowledge receipt of the above-numbered charge of employment discrimination against the above-named respondent. Please use the "EEOC Charge No." listed above whenever you call us about this charge. The information provided indicates that the charge is subject to:

<input checked="" type="checkbox"/>	Title VII of the Civil Rights Act of 1964 (Title VII)
<input type="checkbox"/>	The Age Discrimination in Employment Act (ADEA)
<input type="checkbox"/>	The Americans with Disabilities Act (ADA)
<input type="checkbox"/>	The Equal Pay Act (EPA)
<input type="checkbox"/>	The Genetic Information Nondiscrimination Act (GINA)

You need do nothing further at this time. A copy of the charge or notice of the charge will be sent to the respondent within 10 days of our receipt of the charge as required by our procedures.

While your charge is pending, please notify us of any change in your address, or where you can be reached if you have any prolonged absence from home. Your cooperation in this matter is essential.

Sincerely,

David Cha
Supervisory Investigator (Acting)
(267) 589-9733

www.eeoc.gov

Enclosure(s):



801 Market Street
Suite 1300
Philadelphia, PA 19107
(215) 440-2602
TDD: 1-800-669-6820
Fax: (215) 440-2604
1-800-669-4000

Respondent: KEYSTONE CEMENT CO
EEOC Charge No.: 530-2018-03735
FEPA Charge No.:

July 11, 2018

Russell Harris
P.O. Box 63
Telford, PA 18969

Dear Mr. Harris:

This is to acknowledge receipt of the above-numbered charge of employment discrimination against the above-named respondent. Please use the "EEOC Charge No." listed above whenever you call us about this charge. The information provided indicates that the charge is subject to:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Title VII of the Civil Rights Act of 1964 (Title VII) |
| <input checked="" type="checkbox"/> | The Age Discrimination in Employment Act (ADEA) |
| <input type="checkbox"/> | The Americans with Disabilities Act (ADA) |
| <input type="checkbox"/> | The Equal Pay Act (EPA) |
| <input type="checkbox"/> | The Genetic Information Nondiscrimination Act (GINA) |

You need do nothing further at this time. We will contact you when we need more information or assistance. A copy of the charge or notice of the charge will be sent to the respondent within 10 days of our receipt of the charge as required by our procedures.

Please be aware that we will send a copy of the charge to Pennsylvania Human Relations Commission 333 Market Street Floor 8 Harrisburg, PA 17126 as required by our procedures. If the charge is processed by that agency, it may require the charge to be signed before a notary public or an agency official. Then the agency will investigate and resolve the charge under their statute. If this occurs, section 1601.76 of EEOC's regulations entitles you to ask us to perform a Substantial Weight Review of the agency's final finding. To obtain this review, a written request must be made to this office within 15 days of receipt of the agency's final finding in the case. Otherwise, we will generally adopt the agency's finding as EEOC's.

The quickest and most convenient way to obtain the contact information and the status of your charge is to use EEOC's Online Charge Status System, which is available 24/7. You can access the system via this link (<https://publicportal.eeoc.gov/portal/>) or by selecting the "My Charge Status" button on EEOC's Homepage (www.eeoc.gov). To sign in, enter your EEOC charge number, your zip code and the security response. An informational brochure is enclosed that provides more information about this system and its features.

While your charge is pending, please notify us of any change in your address, or where you can be reached if you have any prolonged absence from home. Your cooperation in this matter is essential.

Sincerely,

Dilip Gokhale
Supervisory Investigator
(267) 589-9721

Office Hours: Monday – Friday, 8:30 a.m. - 5:00 p.m.
www.eeoc.gov

Enclosure(s):



Russ Harris <rhpdesign1@gmail.com>

EEOC Charge of Discrimination

1 message

SHAKHAN SIMMONS <SHAKHAN.SIMMONS@eeoc.gov>

Mon, Sep 10, 2018 at 2:09 PM

To: "greganthony95@gmail.com" <greganthony95@gmail.com>

Thank you for contacting the EEOC and submitting an inquiry regarding your claim of discrimination. By filing your inquiry and scheduling an intake interview using our online public portal, you have enabled our office to review your claim and apply the laws enforceable by our agency to your claim. During your scheduled intake interview your official Charge of Discrimination is drafted and subsequently provided to your employer. Based upon the information you provided in your inquiry it appears that your Charge of Discrimination can be drafted without an appointment. If you would like our office to draft your charge immediately and cancel your appointment, please complete and return the attached Charge of Discrimination - Form 5A and the Pre-Charge inquiry Questionnaire. Please complete both forms in their entirety. You may add any attachments to support your allegations if you wish. You may scan and email the documents back in order for our office to preserve your rights in regards to timeliness. The completed forms need to be emailed to pdocontact@eeoc.gov, mailed or faxed to our office using the information below. If you would prefer to wait until your scheduled appointment for your charge to be drafted please disregard this message.

Best Regards,



Intake Staff

Equal Employment Opportunity Commission

801 Market Street

530-2018-04441

1 message

EDGAR MEDINA <EDGAR.MEDINA@eeoc.gov>
To: "rhpdesign1@gmail.com" <rhpdesign1@gmail.com>

Tue, Sep 11, 2018 at 3:32 PM



2B Letter.pdf
63K



Russ Harris <rhpdesign1@gmail.com>

Signed charge enclosed

8 messages

Russ Harris <rhpdesign1@gmail.com>
 To: KEVIN COLEMAN <KEVIN.COLEMAN@eeoc.gov>


Tue, Jul 10, 2018 at 11:55 AM

Hi Kevin,

Sorry for the delay. A bit disappointing for me in that I've always been a proponent of doing immediately what will be done eventually. I have just question for you good sir, I haven't mentioned (age) as being an issue during this period of discrimination, but could a charge of this nature be quantified? . I've always felt that being in search of the truth should be first and foremost the top priority for me.

russ

Ps. Thanks for all the patience you've shown.. It is appreciated! Please let me know that you have been in receipt of this email. Thanks.

 **Harris Form 5-signed kc.pdf**
 286K

KEVIN COLEMAN <KEVIN.COLEMAN@eeoc.gov>
 To: Russ Harris <rhpdesign1@gmail.com>

Tue, Jul 10, 2018 at 1:11 PM

Got it. I will process today. Thank you.

From: Russ Harris <rhpdesign1@gmail.com>
Sent: Tuesday, July 10, 2018 11:55:57 AM
To: KEVIN COLEMAN
Subject: Signed charge enclosed

[Quoted text hidden]

KEVIN COLEMAN <KEVIN.COLEMAN@eeoc.gov>
 To: Russ Harris <rhpdesign1@gmail.com>

Wed, Jul 11, 2018 at 10:18 AM

Mr. Harris:

Your charge has been processed. Please see attached.

From: KEVIN COLEMAN
Sent: Tuesday, July 10, 2018 1:11:07 PM
To: Russ Harris
Subject: Re: Signed charge enclosed

[Quoted text hidden]

Letter 1

KEVIN COLEMAN <KEVIN.COLEMAN@eeoc.gov>
To: Russ Harris <rhpdesign1@gmail.com>

Thu, Jul 5, 2018 at 2:56 PM




Mr. Harris:

We can use your letter as the charge. Please sign the forms and return. They will be processed when we receive them. Thank you for your cooperation.

From: Russ Harris <rhpdesign1@gmail.com>
Sent: Thursday, July 5, 2018 11:24:39 AM
To: KEVIN COLEMAN
Subject: Letter 1

[Quoted text hidden]

3 attachments

-  **Harris Dual Filing.doc**
25K
-  **Harris Form 5.pdf**
148K
-  **Russell Harris Charge.pdf**
95K